

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2445

Introduced by Assembly Member Canciamilla

February 19, 2004

An act to amend ~~Section 4731 of, and to add Chapter 6 (commencing with Section 4745) to Part 2 of Division 4.7 of the Probate Code, and to amend Section 12811 of, and to add Section 1672.6 to, the Vehicle Sections 4731, 4800, 4802, and 4805 of the Probate Code, relating to~~ advance health care directives.

LEGISLATIVE COUNSEL'S DIGEST

AB 2445, as amended, Canciamilla. Advance health care directives: registry.

Existing law provides that an adult with capacity may give individual health care instruction and defines advance health care directives in this regard. Existing law requires a supervising health care provider who knows of the existence of an advance health care directive to record it in a patient's health care record, and requires a health care provider to comply with the instructions of an advance health care directive, with specified exceptions. *Existing law directs the Secretary of State to establish the Advance Health Care Directive Registry to receive and release specified information from a person who has executed an advance health care directive. Existing law permits the Secretary of State to charge a fee to cover the actual costs of establishing and maintaining the registry.*

This bill would require the Secretary of State ~~to establish and maintain an Advance Health Care Directive Registry, as specified, to be~~

~~operational on January 1, 2006. The bill would require the registry to provide a means by which, for a fee, a person may record an advance health care directive, and would require the registry to provide ready access to a health care provider seeking to determine a person's intent with regard to health care decisions and who may be authorized to make health care decisions. The bill would require, among other things, that the registry protect the security and confidentiality of the directives while providing access to the directives by telephone, fax, and the Internet. The bill would require, as part of the duties associated with the Advance Health Care Directive Registry, to receive and release a person's advance health care directive and other information, and would require that this information be transmitted to the registry system of another jurisdiction upon a specified request. The bill would require the Secretary of State to issue an Advance Health Care Directive Registry identification card to people who have deposited advance health care directive information with the registry, and would require the Secretary of State to charge a fee to cover the actual costs of establishing and maintaining the registry. The bill would remove a prohibition on honoring an advanced health care directive unless it receives a copy from a registrant, and the bill would require a supervising health care provider, commencing January 1, 2006, to check the registry for an advance health care directive, as specified.~~

~~The bill would require the Department of Motor Vehicles, commencing January 1, 2006, to provide a sticker, as specified, that may be affixed to the driver's license or identification card, which indicates that the individual has an advance health care directive recorded at the registry. The bill would require the Department of Motor Vehicles to provide information regarding advance health care directives, as specified, and to include information regarding advance health care directives in driver education programs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4731 of the Probate Code is amended to
- 2 read:
- 3 4731. (a) (1) A supervising health care provider who knows
- 4 of the existence of an advance health care directive, a revocation
- 5 of an advance health care directive, or a designation or



disqualification of a surrogate, shall promptly record its existence in the patient's health care record and, if it is in writing, shall request a copy. If a copy is furnished, the supervising health care provider shall arrange for its maintenance in the patient's health care record.

~~(2) (A) When a supervising health care provider is unable to check directly with a patient regarding an advance health care directive, the supervising health care provider shall check the patient's driver's license, if available, for the sticker that indicates that an advance care directive has been recorded at the Advance Health Care Directive Registry. If the supervising health care provider discovers a sticker indicating that an advance health care directive is recorded at the Advance Health Care Directive Registry, or if the patient directs the supervising health care provider to check for an advance health care directive at the Advance Health Care Directive Registry, the supervising health care provider shall arrange for the registry to be contacted as soon as practicable and for a copy of the patient's advance health care directive, if any, to be delivered, at which time the procedures described in paragraph (1) shall apply.~~

~~(B) The provisions of this paragraph shall be operative January 1, 2006. If a supervising health care provider is informed or discovers that a patient has registered an advance health care directive, or information regarding an advance health care directive, with the Advance Health Care Directive Registry, pursuant to Section 4800, the provider shall arrange for the directive or other information to be obtained from the registry as soon as possible. If a patient is unable to inform the supervising health care provider of the existence of an advance health care directive, the supervising health care provider shall check for a identification card issued by the Advance Health Care Directive Registry indicating that an advance health care directive, or information regarding an advance health care directive, has been deposited with the registry.~~

(b) A supervising health care provider who knows of a revocation of a power of attorney for health care or a disqualification of a surrogate shall make a reasonable effort to notify the agent or surrogate of the revocation or disqualification.

~~SEC. 2.—Chapter 6 (commencing with Section 4745) is added~~

SEC. 2. Section 4800 of the Probate Code is amended to read:

1 4800. (a) The Secretary of State shall establish a registry
2 system through which a person who has executed a written
3 advance health care directive may register in a central information
4 center, information regarding the advance directive, making that
5 information available upon request to any health care provider, the
6 public guardian, or other person authorized by the registrant.

7 (b) Information that ~~may~~ *shall* be received and released is
8 limited to the registrant's name, social security or driver's license
9 or other individual identifying number established by law, if any,
10 address, date and place of birth, the *registrant's advance health*
11 *care directive*, an intended place of deposit or safekeeping of ~~the~~
12 *a* written advance health care directive, and the name and
13 telephone number of the agent and any alternative agent.

14 (c) *When the Secretary of State receives information from a*
15 *registrant, the secretary shall issue the registrant an Advance*
16 *Health Care Directive Registry identification card indicating that*
17 *an advance health care directive, or information regarding an*
18 *advance health care directive, has been deposited with the registry.*
19 *Costs associated with issuance of the card shall be offset by the fee*
20 *charged by the Secretary of State to receive and register*
21 *information at the registry.*

22 (d) The Secretary of State, at the request of the registrant *or his*
23 *or her representative*, ~~may~~ *shall* transmit the information received
24 regarding the written advance health care directive to the registry
25 system of another jurisdiction as identified by the registrant, *or his*
26 *or her representative.*

27 ~~(d)~~

28 (e) The Secretary of State ~~may~~ *shall* charge a fee to each
29 registrant in an amount such that, when all fees charged to
30 registrants are aggregated, the aggregated fees do not exceed the
31 actual cost of establishing and maintaining the registry.

32 SEC. 3. *Section 4802 of the Probate Code is amended to read:*

33 4802. The Secretary of State shall establish procedures to
34 advise each registrant of the following:

35 (a) ~~A health care provider may not honor a written advance~~
36 ~~health care directive until it receives a copy from the registrant.~~

37 ~~(b)~~ Each registrant must notify the registry upon revocation of
38 the advance directive.

39 ~~(c)~~

(b) Each registrant must reregister upon execution of a subsequent advance directive.

SEC. 4. Section 4805 of the Probate Code is amended to read:

4805. Nothing in this chapter shall be construed to require a health care provider to request from the registry information about whether a patient has executed an advance health care directive. Nothing in this chapter part shall be construed to affect the duty of a health care provider to provide information to a patient regarding advance health care directives pursuant to any provision of federal law.

to Part 2 of Division 4.7 of the Probate Code, to read:

CHAPTER 6.—ADVANCE HEALTH CARE DIRECTIVE REGISTRY

4745.—(a) The Secretary of State shall establish and maintain an Advance Health Care Directive Registry as described in this chapter. The registry shall be operational on January 1, 2006.

(b) (1) The registry shall provide a means by which, for a fee, a person may record an advance health care directive in the registry and a method for a person to amend or remove a directive that the person has recorded there.

(2) An advanced health care directive may be recorded by the person who executes it, or by an attorney, health care provider, health care surrogate, or any other party who is authorized to possesses a valid advance health care directive executed by another person.

(c) The registry shall provide ready access to a health care provider seeking to determine a person's intent with regard to health care decisions and who may be authorized to make health care decisions. The registry shall protect the security and confidentiality of the directives while providing access to the directives by telephone, fax, and the Internet.

(d) The Secretary of State shall promulgate all regulations necessary for the creation and maintenance of the Advance Health Care Directive Registry. The Secretary of State shall establish and charge a fee to recover the costs of maintaining the registry.

SEC. 3.—Section 1672.6 is added to the Vehicle Code, to read:

1672.6.—(a) For purposes of providing a means of identifying persons who have recorded an advance health care directive at the Advance Health Care Directive Registry (Chapter 6 (commencing

1 ~~with Section 4745) of Part 2 of Division 4.7 of the Probate Code);~~
2 ~~the department shall design the driver's licenses and identification~~
3 ~~cards in order that an advance health care directive sticker may be~~
4 ~~affixed to the licenses and cards. The sticker shall indicate that a~~
5 ~~person has recorded an advance health care directive at the registry~~
6 ~~and shall be affixed with a substance that is resistant to any~~
7 ~~unintentional removal.~~

8 ~~(b) All driver education courses shall include a segment on~~
9 ~~advance health care directives, which shall include, at a minimum,~~
10 ~~the following:~~

11 ~~(1) A statement that it is the policy of the state to provide~~
12 ~~information regarding the importance of people executing~~
13 ~~advance health care directives in order to inform providers of the~~
14 ~~wishes of the patient.~~

15 ~~(2) The requirements for executing and recording advance~~
16 ~~health care directives.~~

17 ~~(3) Notification of the ability to make a designation on a~~
18 ~~driver's license which indicates that the holder of the license has~~
19 ~~executed an advance health care directive that is recorded at the~~
20 ~~Advance Health Care Directive Registry (Chapter 6 (commencing~~
21 ~~with Section 4745) of Part 2 of Division 4.7 of the Probate Code).~~

22 ~~(c) The provisions of this section shall be operative January 1,~~
23 ~~2006.~~

24 ~~SEC. 4. Section 12811 of the Vehicle Code is amended to~~
25 ~~read:~~

26 ~~12811. (a) (1) When the department determines that the~~
27 ~~applicant is lawfully entitled to a license, it shall issue to the person~~
28 ~~a driver's license as applied for. The license shall state the class of~~
29 ~~license for which the licensee has qualified and shall contain the~~
30 ~~distinguishing number assigned to the applicant, the date of~~
31 ~~expiration, the true full name, age, and mailing address of the~~
32 ~~licensee, a brief description and engraved picture or photograph of~~
33 ~~the licensee for the purpose of identification, and space for the~~
34 ~~signature of the licensee.~~

35 ~~Each license shall also contain a space for the endorsement of~~
36 ~~a record of each suspension or revocation thereof.~~

37 ~~The department shall use whatever process or processes, in the~~
38 ~~issuance of engraved or colored licenses, that prohibit, as near as~~
39 ~~possible, the ability to alter or reproduce the license, or prohibit the~~

1 ~~ability to superimpose a picture or photograph on the license~~
2 ~~without ready detection.~~

3 ~~(2) In addition to the requirements of paragraph (1), a license~~
4 ~~issued to a person under 18 years of age shall display the words~~
5 ~~“provisional until age 18.”~~

6 ~~(b) Upon issuance of a new driver’s license or a renewal of a~~
7 ~~driver’s license or the issuance of an identification card, the~~
8 ~~department shall:~~

9 ~~(1) Provide information on organ and tissue donation,~~
10 ~~including a standardized form to be filled out by an individual who~~
11 ~~desires to enroll in the California Organ and Tissue Donor Registry~~
12 ~~with instructions for mailing the completed form to the California~~
13 ~~Organ and Tissue Donor Registrar established pursuant to~~
14 ~~subdivision (a) of Section 7152.7 of the Health and Safety Code,~~
15 ~~including a donor dot that may be affixed to the new driver’s~~
16 ~~license or identification card.~~

17 ~~(A) The enrollment form shall be simple in design and shall be~~
18 ~~produced by the department in cooperation with the California~~
19 ~~Organ and Tissue Donor Registrar and shall require all of the~~
20 ~~following information to be supplied by an enrollee:~~

21 ~~(i) Date of birth, sex, full name, and other information deemed~~
22 ~~necessary to provide a positive identification of an individual.~~

23 ~~(ii) Consent for organs or tissues to be donated for transplant~~
24 ~~after death.~~

25 ~~(iii) Any limitation of the donation to specific organs or tissues.~~

26 ~~(B) The form shall also include both of the following:~~

27 ~~(i) A description of the process for having a name removed~~
28 ~~from the registry, and the process for donating money for the~~
29 ~~benefit of the registry.~~

30 ~~(ii) A statement that the name of any person who enrolls in the~~
31 ~~registry pursuant to this section shall be made available to~~
32 ~~federally recognized donor organizations.~~

33 ~~(C) The registry enrollment form shall be posted on the Web~~
34 ~~sites for the department and the California Health and Human~~
35 ~~Services Agency.~~

36 ~~(D) The form shall constitute a legal document under the~~
37 ~~Uniform Anatomical Gift Act (Chapter 3.5 (commencing with~~
38 ~~Section 7150) of Part 1 of Division 7 of the Health and Safety~~
39 ~~Code) and shall remain binding after the donor’s death despite any~~
40 ~~express desires of next of kin opposed to the donation.~~

1 ~~(E) The registrar shall ensure that all additions and deletions to~~
2 ~~the registry shall occur within 30 days of receipt.~~

3 ~~(F) Information obtained by the registrar for the purposes of~~
4 ~~this subdivision shall be used for these purposes only and shall not~~
5 ~~be disseminated further by the registrar.~~

6 ~~(2) (A) Provide information on advance health care directives,~~
7 ~~including a standardized form to be completed by a person to~~
8 ~~enroll in the California Advance Health Care Directive Registry~~
9 ~~(Chapter 6 (commencing with Section 4745) of Part 2 of Division~~
10 ~~4.7 of the Probate Code), with instructions for submitting the~~
11 ~~completed form to the registry.~~

12 ~~(B) The department shall provide a sticker that may be affixed~~
13 ~~to the driver's license or identification card that indicates that the~~
14 ~~individual has an advance health care directive recorded at the~~
15 ~~California Advance Health Care Directive Registry.~~

16 ~~(C) This paragraph does not impose any additional duty on a~~
17 ~~health care provider.~~

18 ~~(D) For the purposes of this paragraph, "advance health care~~
19 ~~directive" means any writing that satisfies the requirements of~~
20 ~~Section 4673 of the Probate Code.~~

21 ~~(E) The provisions of this paragraph shall be operative January~~
22 ~~1, 2006.~~

23 ~~(e) A public entity or employee shall not be liable for any loss,~~
24 ~~detriment, or injury resulting directly or indirectly from false or~~
25 ~~inaccurate information contained in the form provided pursuant to~~
26 ~~subdivision (b).~~

27 ~~(d) No contract may be let to any nongovernmental entity for~~
28 ~~the processing of driver's licenses, unless the department receives~~
29 ~~two or more qualified bids from independent, responsible bidders.~~
30